

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

CHAPTER 188

# **HOUSE BILL 2627**

AN ACT

AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION  
PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5075, Arizona Revised Statutes, is amended to  
3 read:

4 42-5075. Prime contracting classification; exemptions;  
5 definitions

6 A. The prime contracting classification is comprised of the business  
7 of prime contracting and dealership of manufactured buildings. Sales for  
8 resale to another dealership of manufactured buildings are not subject to  
9 tax. Sales for resale do not include sales to a lessor of manufactured  
10 buildings. The sale of a used manufactured building is not taxable under  
11 this chapter. The proceeds from alteration and repairs to a used  
12 manufactured building are taxable under this section.

13 B. The tax base for the prime contracting classification is sixty-five  
14 per cent of the gross proceeds of sales or gross income derived from the  
15 business. The following amounts shall be deducted from the gross proceeds of  
16 sales or gross income before computing the tax base:

17 1. The sales price of land, which shall not exceed the fair market  
18 value.

19 2. Sales and installation of groundwater measuring devices required  
20 under section 45-604 and groundwater monitoring wells required by law,  
21 including monitoring wells installed for acquiring information for a permit  
22 required by law.

23 3. The sales price of furniture, furnishings, fixtures, appliances,—  
24 and attachments that are not incorporated as component parts of or attached  
25 to a manufactured building or the setup site. The sale of such items may be  
26 subject to the taxes imposed by article 1 of this chapter separately and  
27 distinctly from the sale of the manufactured building.

28 4. The gross proceeds of sales or gross income received from a  
29 contract entered into for the construction, alteration, repair, addition,  
30 subtraction, improvement, movement, wrecking or demolition of any building,  
31 highway, road, railroad, excavation, manufactured building or other  
32 structure, project, development or improvement located in a military reuse  
33 zone for providing aviation or aerospace services or for a manufacturer,  
34 assembler or fabricator of aviation or aerospace products within an active  
35 military reuse zone after the zone is initially established or renewed under  
36 section 41-1531. To be eligible to qualify for this deduction, before  
37 beginning work under the contract, the prime contractor must have applied for  
38 a letter of qualification from the department of revenue.

39 5. The gross proceeds of sales or gross income derived from a contract  
40 to construct a qualified environmental technology manufacturing, producing or  
41 processing facility, as described in section 41-1514.02, and from subsequent  
42 construction and installation contracts that begin within ten years after the  
43 start of initial construction. To qualify for this deduction, before  
44 beginning work under the contract, the prime contractor must obtain a letter  
45 of qualification from the department of revenue. This paragraph shall apply

1 for ten full consecutive calendar or fiscal years after the start of initial  
2 construction.

3 6. The gross proceeds of sales or gross income from a contract to  
4 provide for one or more of the following actions, or a contract for site  
5 preparation, constructing, furnishing or installing machinery, equipment or  
6 other tangible personal property, including structures necessary to protect  
7 exempt incorporated materials or installed machinery or equipment, and  
8 tangible personal property incorporated into the project, to perform one or  
9 more of the following actions in response to a release or suspected release  
10 of a hazardous substance, pollutant or contaminant from a facility to the  
11 environment, unless the release was authorized by a permit issued by a  
12 governmental authority:

13 (a) Actions to monitor, assess and evaluate such a release or a  
14 suspected release.

15 (b) Excavation, removal and transportation of contaminated soil and  
16 its treatment or disposal.

17 (c) Treatment of contaminated soil by vapor extraction, chemical or  
18 physical stabilization, soil washing or biological treatment to reduce the  
19 concentration, toxicity or mobility of a contaminant.

20 (d) Pumping and treatment or in situ treatment of contaminated  
21 groundwater or surface water to reduce the concentration or toxicity of a  
22 contaminant.

23 (e) The installation of structures, such as cutoff walls or caps, to  
24 contain contaminants present in groundwater or soil and prevent them from  
25 reaching a location where they could threaten human health or welfare or the  
26 environment.

27 This paragraph does not include asbestos removal or the construction or use  
28 of ancillary structures such as maintenance sheds, offices or storage  
29 facilities for unattached equipment, pollution control equipment, facilities  
30 or other control items required or to be used by a person to prevent or  
31 control contamination before it reaches the environment.

32 7. The gross proceeds of sales or gross income that is derived from a  
33 contract entered into for the installation, assembly, repair or maintenance  
34 of machinery, equipment or other tangible personal property that is deducted  
35 from the tax base of the retail classification pursuant to section 42-5061,  
36 subsection B, or that is exempt from use tax pursuant to section 42-5159,  
37 subsection B, and that does not become a permanent attachment to a building,  
38 highway, road, railroad, excavation or manufactured building or other  
39 structure, project, development or improvement. If the ownership of the  
40 realty is separate from the ownership of the machinery, equipment or tangible  
41 personal property, the determination as to permanent attachment shall be made  
42 as if the ownership were the same. The deduction provided in this paragraph  
43 does not include gross proceeds of sales or gross income from that portion of  
44 any contracting activity which consists of the development of, or  
45 modification to, real property in order to facilitate the installation,

1 assembly, repair, maintenance or removal of machinery, equipment or other  
2 tangible personal property that is deducted from the tax base of the retail  
3 classification pursuant to section 42-5061, subsection B or that is exempt  
4 from use tax pursuant to section 42-5159, subsection B. For the purposes of  
5 this paragraph, "permanent attachment" means at least one of the following:

6 (a) To be incorporated into real property.  
7 (b) To become so affixed to real property that it becomes a part of  
8 the real property.

9 (c) To be so attached to real property that removal would cause  
10 substantial damage to the real property from which it is removed.

11 8. Through December 31, 2009, the gross proceeds of sales or gross  
12 income received from a contract for constructing any lake facility  
13 development in a commercial enhancement reuse district that is designated  
14 pursuant to section 9-499.08 if the prime contractor maintains the following  
15 records in a form satisfactory to the department and to the city or town in  
16 which the property is located:

17 (a) The certificate of qualification of the lake facility development  
18 issued by the city or town pursuant to section 9-499.08, subsection D.

19 (b) All state and local transaction privilege tax returns for the  
20 period of time during which the prime contractor received gross proceeds of  
21 sales or gross income from a contract to construct a lake facility  
22 development in a designated commercial enhancement reuse district, showing  
23 the amount exempted from state and local taxation.

24 (c) Any other information that the department considers to be  
25 necessary.

26 9. The gross proceeds of sales or gross income attributable to the  
27 purchase of machinery, equipment or other tangible personal property that is  
28 exempt from or deductible from transaction privilege and use tax under:

29 (a) Section 42-5061, subsection A, paragraph 25 or 29.

30 (b) Section 42-5061, subsection B.

31 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
32 (c), (d), (e), (f), (i), (j) or (l).

33 (d) Section 42-5159, subsection B.

34 10. The gross proceeds of sales or gross income received from a  
35 contract for the construction of an environmentally controlled facility for  
36 the raising of poultry for the production of eggs and the sorting, cooling  
37 and packaging of eggs.

38 11. The gross proceeds of sales or gross income that is derived from a  
39 contract entered into with a person who is engaged in the commercial  
40 production of livestock, livestock products or agricultural, horticultural,  
41 viticultural or floricultural crops or products in this state for the  
42 construction, alteration, repair, improvement, movement, wrecking or  
43 demolition or addition to or subtraction from any building, highway, road,  
44 excavation, manufactured building or other structure, project, development or

1 improvement used directly and primarily to prevent, monitor, control or  
2 reduce air, water or land pollution.

3 12. The gross proceeds of sales or gross income that is derived from  
4 the installation, assembly, repair or maintenance of clean rooms that are  
5 deducted from the tax base of the retail classification pursuant to section  
6 42-5061, subsection B, paragraph 17.

7 13. For taxable periods beginning from and after June 30, 2001, the  
8 gross proceeds of sales or gross income derived from a contract entered into  
9 for the construction of a residential apartment housing facility that  
10 qualifies for a federal housing subsidy for low income persons over sixty-two  
11 years of age and that is owned by a nonprofit charitable organization that  
12 has qualified under section 501(c)(3) of the internal revenue code.

13 14. For taxable periods beginning from and after December 31, 1996 and  
14 ending before January 1, 2011, the gross proceeds of sales or gross income  
15 derived from a contract to provide and install a solar energy device. The  
16 contractor shall register with the department as a solar energy contractor.  
17 By registering, the contractor acknowledges that it will make its books and  
18 records relating to sales of solar energy devices available to the department  
19 for examination.

20 15. The gross proceeds of sales or gross income derived from a contract  
21 entered into for the construction of a launch site, as defined in 14 Code of  
22 Federal Regulations section 401.5.

23 16. The gross proceeds of sales or gross income derived from a contract  
24 entered into for the construction of a domestic violence shelter that is  
25 owned and operated by a nonprofit charitable organization that has qualified  
26 under section 501(c)(3) of the internal revenue code.

27 17. The gross proceeds of sales or gross income derived from contracts  
28 to perform postconstruction treatment of real property for termite and  
29 general pest control, including wood destroying organisms.

30 18. The gross proceeds of sales or gross income received from contracts  
31 entered into before July 1, 2006 for constructing a state university research  
32 infrastructure project if the project has been reviewed by the joint  
33 committee on capital review before the university enters into the  
34 construction contract for the project. For the purposes of this paragraph,  
35 "research infrastructure" has the same meaning prescribed in section 15-1670.

36 19. The gross proceeds of sales or gross income received from a  
37 contract for the construction of any building, or other structure, project,  
38 development or improvement owned by a qualified business under section  
39 41-1516 for harvesting or the initial processing of qualifying forest  
40 products removed from qualifying projects as defined in section 41-1516 if  
41 actual construction begins before January 1, 2010. To qualify for this  
42 deduction, the prime contractor must obtain a letter of qualification from  
43 the department of commerce before beginning work under the contract.

44 20. The gross proceeds of sales or gross income received from a  
45 contract for the construction of any building or other structure associated

1 with motion picture production in this state. To qualify for the deduction,  
2 at the time the contract is entered into the motion picture production  
3 company must present to the prime contractor its certificate that is issued  
4 pursuant to section 42-5009, subsection H and that establishes its  
5 qualification for the deduction.

6 21. Any amount of the gross proceeds of sales or gross income from a  
7 contract that constitutes development or impact fees paid to the state or a  
8 local government to offset governmental costs of providing public  
9 infrastructure, public safety and other public services to a development.

10 C. Entitlement to the deduction pursuant to subsection B, paragraph 7  
11 of this section is subject to the following provisions:

12 1. A prime contractor may establish entitlement to the deduction by  
13 both:

14 (a) Marking the invoice for the transaction to indicate that the gross  
15 proceeds of sales or gross income derived from the transaction was deducted  
16 from the base.

17 (b) Obtaining a certificate executed by the purchaser indicating the  
18 name and address of the purchaser, the precise nature of the business of the  
19 purchaser, the purpose for which the purchase was made, the necessary facts  
20 to establish the deductibility of the property under section 42-5061,  
21 subsection B, and a certification that the person executing the certificate  
22 is authorized to do so on behalf of the purchaser. The certificate may be  
23 disregarded if the prime contractor has reason to believe that the  
24 information contained in the certificate is not accurate or complete.

25 2. A person who does not comply with paragraph 1 of this subsection  
26 may establish entitlement to the deduction by presenting facts necessary to  
27 support the entitlement, but the burden of proof is on that person.

28 3. The department may prescribe a form for the certificate described  
29 in paragraph 1, subdivision (b) of this subsection. The department may also  
30 adopt rules that describe the transactions with respect to which a person is  
31 not entitled to rely solely on the information contained in the certificate  
32 provided in paragraph 1, subdivision (b) of this subsection but must instead  
33 obtain such additional information as required in order to be entitled to the  
34 deduction.

35 4. If a prime contractor is entitled to a deduction by complying with  
36 paragraph 1 of this subsection, the department may require the purchaser who  
37 caused the execution of the certificate to establish the accuracy and  
38 completeness of the information required to be contained in the certificate  
39 which would entitle the prime contractor to the deduction. If the purchaser  
40 cannot establish the accuracy and completeness of the information, the  
41 purchaser is liable in an amount equal to any tax, penalty and interest which  
42 the prime contractor would have been required to pay under article 1 of this  
43 chapter if the prime contractor had not complied with paragraph 1 of this  
44 subsection. Payment of the amount under this paragraph exempts the purchaser  
45 from liability for any tax imposed under article 4 of this chapter. The

1 amount shall be treated as a transaction privilege tax to the purchaser and  
2 as tax revenues collected from the prime contractor in order to designate the  
3 distribution base for purposes of section 42-5029.

4 D. Subcontractors or others who perform services in respect to any  
5 improvement, building, highway, road, railroad, excavation, manufactured  
6 building or other structure, project, development or improvement are not  
7 subject to tax if they can demonstrate that the job was within the control of  
8 a prime contractor or contractors or a dealership of manufactured buildings  
9 and that the prime contractor or dealership is liable for the tax on the  
10 gross income, gross proceeds of sales or gross receipts attributable to the  
11 job and from which the subcontractors or others were paid.

12 E. Amounts received by a contractor for a project are excluded from  
13 the contractor's gross proceeds of sales or gross income derived from the  
14 business if the person who hired the contractor executes and provides a  
15 certificate to the contractor stating that the person providing the  
16 certificate is a prime contractor and is liable for the tax under article 1  
17 of this chapter. The department shall prescribe the form of the certificate.  
18 If the contractor has reason to believe that the information contained on the  
19 certificate is erroneous or incomplete, the department may disregard the  
20 certificate. If the person who provides the certificate is not liable for  
21 the tax as a prime contractor, that person is nevertheless deemed to be the  
22 prime contractor in lieu of the contractor and is subject to the tax under  
23 this section on the gross receipts or gross proceeds received by the  
24 contractor.

25 F. Every person engaging or continuing in this state in the business  
26 of prime contracting or dealership of manufactured buildings shall present to  
27 the purchaser of such prime contracting or manufactured building a written  
28 receipt of the gross income or gross proceeds of sales from such activity and  
29 shall separately state the taxes to be paid pursuant to this section.

30 G. For the purposes of section 42-5032.01, the department shall  
31 separately account for revenues collected under the prime contracting  
32 classification from any prime contractor engaged in the preparation or  
33 construction of a multipurpose facility, and related infrastructure, that is  
34 owned, operated or leased by the tourism and sports authority pursuant to  
35 title 5, chapter 8.

36 H. The gross proceeds of sales or gross income derived from a contract  
37 for lawn maintenance services are not subject to tax under this section if  
38 the contract does not include landscaping activities. Lawn maintenance  
39 service is a service pursuant to section 42-5061, subsection A, paragraph 1,  
40 and includes lawn mowing and edging, weeding, repairing sprinkler heads or  
41 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,  
42 lawn de-thatching, seeding winter lawns, leaf and debris collection and  
43 removal, tree or shrub pruning or clipping, garden and gravel raking and  
44 applying pesticides, as defined in section 3-361, and fertilizer materials,  
45 as defined in section 3-262.

1 I. The gross proceeds of sales or gross income derived from  
2 landscaping activities are subject to tax under this section. Landscaping  
3 includes installing lawns, grading or leveling ground, installing gravel or  
4 boulders, planting trees and other plants, felling trees, removing or  
5 mulching tree stumps, removing other imbedded plants, building or modifying  
6 irrigation berms, repairing sprinkler or watering systems, installing  
7 railroad ties and installing underground sprinkler or watering systems.

8 J. The portion of gross proceeds of sales or gross income attributable  
9 to the actual direct costs of providing architectural or engineering services  
10 that are incorporated in a contract is not subject to tax under this section.  
11 For the purposes of this subsection, "direct costs" means the portion of the  
12 actual costs that are directly expended in providing architectural or  
13 engineering services.

14 K. Operating a landfill or a solid waste disposal facility is not  
15 subject to taxation under this section, including filling, compacting and  
16 creating vehicle access to and from cell sites within the landfill.  
17 Constructing roads to a landfill or solid waste disposal facility and  
18 constructing cells within a landfill or solid waste disposal facility may be  
19 deemed prime contracting under this section.

20 L. The following ~~applies~~ APPLY to manufactured buildings:

21 1. For sales in this state where the ~~dealer~~ DEALERSHIP of manufactured  
22 buildings contracts to deliver the building to a setup site or to perform the  
23 setup in this state, the taxable situs is the setup site.

24 2. For sales in this state where the ~~dealer~~ DEALERSHIP of manufactured  
25 buildings does not contract to deliver the building to a setup site or does  
26 not perform the setup, the taxable situs is the location of the dealership  
27 where the building is delivered to the buyer.

28 3. For sales in this state where the ~~dealer~~ DEALERSHIP of manufactured  
29 buildings contracts to deliver the building to a setup site that is outside  
30 this state, the situs is outside this state and the transaction is excluded  
31 from tax.

32 M. NOTWITHSTANDING SUBSECTION N, PARAGRAPH 8 OF THIS SECTION, A PERSON  
33 OWNING REAL PROPERTY WHO ENTERS INTO A CONTRACT FOR SALE OF THE REAL  
34 PROPERTY, WHO IS RESPONSIBLE TO THE NEW OWNER OF THE PROPERTY FOR  
35 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER  
36 OF TITLE AND WHO RECEIVES A CONSIDERATION FOR THE MODIFICATIONS IS CONSIDERED  
37 A PRIME CONTRACTOR SOLELY FOR PURPOSES OF TAXING THE GROSS PROCEEDS OF SALE  
38 OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS MADE SUBSEQUENT TO THE  
39 TRANSFER OF TITLE. THE ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS  
40 INCOME RECEIVED FOR THE MODIFICATIONS SHALL BE DETERMINED ACCORDING TO THE  
41 FOLLOWING METHODOLOGY:

42 1. IF ANY PART OF THE CONTRACT FOR SALE OF THE PROPERTY SPECIFIES  
43 AMOUNTS TO BE PAID TO THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN  
44 THE PERIOD SUBSEQUENT TO THE TRANSFER OF TITLE, THE AMOUNTS ARE INCLUDED IN  
45 THE ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME UNDER THIS



1 SECTION. PROCEEDS FROM THE SALE OF THE PROPERTY RECEIVED AFTER TRANSFER OF  
2 TITLE THAT ARE UNRELATED TO THE MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER  
3 OF TITLE WILL NOT BE CONSIDERED GROSS PROCEEDS OF SALE OR GROSS INCOME FROM  
4 THE MODIFICATIONS.

5 2. IF THE ORIGINAL OWNER ENTERS INTO AN AGREEMENT SEPARATE FROM THE  
6 CONTRACT FOR SALE OF THE REAL PROPERTY PROVIDING FOR AMOUNTS TO BE PAID TO  
7 THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN THE PERIOD SUBSEQUENT  
8 TO THE TRANSFER OF TITLE TO THE PROPERTY, THE AMOUNTS ARE INCLUDED IN THE  
9 ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE  
10 MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE.

11 3. IF THE ORIGINAL OWNER IS RESPONSIBLE TO THE NEW OWNER FOR  
12 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER  
13 OF TITLE AND DERIVES ANY GROSS PROCEEDS OF SALE OR GROSS INCOME FROM THE  
14 PROJECT SUBSEQUENT TO THE TRANSFER OF TITLE OTHER THAN A DELAYED DISBURSEMENT  
15 FROM ESCROW UNRELATED TO THE MODIFICATIONS, IT IS PRESUMED THAT THE AMOUNTS  
16 ARE RECEIVED FOR THE MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE  
17 UNLESS THE CONTRARY IS ESTABLISHED BY THE OWNER THROUGH ITS BOOKS, RECORDS  
18 AND PAPERS KEPT IN THE REGULAR COURSE OF BUSINESS.

19 4. THE TAX BASE OF THE ORIGINAL OWNER IS COMPUTED IN THE SAME MANNER  
20 AS A PRIME CONTRACTOR UNDER THIS SECTION.

21 ~~M.~~ N. For the purposes of this section:

22 1. "Contracting" means engaging in business as a contractor.

23 2. "Contractor" is synonymous with the term "builder" and means any  
24 person, ~~firm, partnership, corporation, association or other organization, or~~  
25 ~~a combination of any of them,~~ that undertakes to or offers to undertake to,  
26 or purports to have the capacity to undertake to, or submits a bid to, or  
27 does personally or by or through others, ~~construct, alter, repair, add to,~~  
28 ~~subtract from, improve, move, wreck or demolish~~ MODIFY any building, highway,  
29 road, railroad, excavation, manufactured building or other structure,  
30 project, development or improvement, or to do any part of such a project,  
31 including the erection of scaffolding or other structure or works in  
32 connection with such a project, and includes subcontractors and specialty  
33 contractors. For all purposes of taxation or deduction, this definition  
34 shall govern without regard to whether or not such contractor is acting in  
35 fulfillment of a contract.

36 3. "Dealership of manufactured buildings" means a dealer who either:

37 (a) Is licensed pursuant to title 41, chapter 16 and who sells  
38 manufactured buildings to the final consumer.

39 (b) Supervises, performs or coordinates the excavation and completion  
40 of site improvements, setup or moving of a manufactured building including  
41 the contracting, if any, with any subcontractor or specialty contractor for  
42 the completion of the contract.

43 4. "Manufactured building" means a manufactured home, mobile home or  
44 factory-built building, as defined in section 41-2142.

1           5. "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, REPAIR, ADDITION,  
2 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

3           6. "MODIFY" MEANS TO CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM,  
4 IMPROVE, MOVE, WRECK OR DEMOLISH.

5           ~~5-~~ 7. "Prime contracting" means engaging in business as a prime  
6 contractor.

7           ~~6-~~ 8. "Prime contractor" means a contractor who supervises, performs  
8 or coordinates the ~~construction, alteration, repair, addition, subtraction,~~  
9 ~~improvement, movement, wreckage or demolition~~ MODIFICATION of any building,  
10 highway, road, railroad, excavation, manufactured building or other  
11 structure, project, development or improvement including the contracting, if  
12 any, with any subcontractors or specialty contractors and who is responsible  
13 for the completion of the contract. EXCEPT AS PROVIDED IN SUBSECTIONS E AND  
14 M OF THIS SECTION, A PERSON WHO OWNS REAL PROPERTY, WHO ENGAGES ONE OR MORE  
15 CONTRACTORS TO MODIFY THAT REAL PROPERTY AND WHO DOES NOT ITSELF MODIFY THAT  
16 REAL PROPERTY IS NOT A PRIME CONTRACTOR WITHIN THE MEANING OF THIS PARAGRAPH  
17 REGARDLESS OF THE EXISTENCE OF A CONTRACT FOR SALE OR THE SUBSEQUENT SALE OF  
18 THAT REAL PROPERTY.

19           ~~7-~~ 9. "Sale of a used manufactured building" does not include a lease  
20 of a used manufactured building.

21           Sec. 2. Retroactivity; limitation on refunds; nonseverability

22           A. Section 42-5075, subsections M and N, Arizona Revised Statutes, as  
23 amended by this act, apply retroactively to taxable periods beginning from  
24 and after January 8, 1991.

25           B. Any claim for refund of transaction privilege tax based on the  
26 retroactive application of section 42-5075, subsections M and N, Arizona  
27 Revised Statutes, as amended by this act, must be submitted to the department  
28 of revenue on or before December 31, 2007, pursuant to section 42-1118,  
29 Arizona Revised Statutes. A failure to file a claim on or before December  
30 31, 2007 constitutes a waiver of the claim for refund under this section.

31           C. The aggregate amount of refunds under this section shall not exceed  
32 ten thousand dollars including interest. If the aggregate amount of the  
33 claims under this section that are ultimately determined to be correct  
34 exceeds ten thousand dollars, then each claim shall be proportionately  
35 reduced so that the total refund amount equals ten thousand dollars. Amounts  
36 due under this section shall not be refunded unless the taxpayer requesting  
37 the refund provides evidence satisfactory to the department of revenue that  
38 amounts of tax and interest collected from other persons by the taxpayer will  
39 be returned to those persons.

40           D. The use of the newly defined terms "modification" and "modify" to  
41 encompass activities provided for under section 42-5075, subsection M,  
42 Arizona Revised Statutes, as it existed prior to this act, and the  
43 substitution of the word "person" as defined in section 42-5001, Arizona  
44 Revised Statutes, for the words "firm, partnership, corporation, association  
45 or other" under section 42-5075, subsection M, Arizona Revised Statutes, as

1 it existed prior to this act, are nonsubstantive changes intended merely to  
2 facilitate ease of reading and the understandability of the affected  
3 provisions. The two changes discussed in this section shall not be  
4 interpreted as altering the meaning or scope of section 42-5075, Arizona  
5 Revised Statutes.

6 E. This section does not extend the statute of limitations for  
7 assessment or refund beyond that which is open under sections 42-1104 and  
8 42-1106, Arizona Revised Statutes.

9 F. If any part of this section is finally adjudicated to be invalid,  
10 the entire section is void. The provisions of this section are intended to  
11 be nonseverable.

APPROVED BY THE GOVERNOR MAY 8, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2007.